

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9625 of 1992

with

SPECIAL CIVIL APPLICATION No.5969 of 1993

with

SPECIAL CIVIL APPLICATION No.7084 of 1993

with

SPECIAL CIVIL APPLICATION No.7767 of 1993

with

SPECIAL CIVIL APPLICATION No.530 of 1994

For approval and signataure :

Hon'ble THE ACTING CHIEF JUSTICE MR.R.A. MEHTA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 : No

SCA 9625/92: AMBER TEXTILES

Versus

STATE OF GUJARAT

Appearance in all matters :

MR SN SOPARKAR for Petitioners

Asst. Govt. Pleader for Respondent No. 1

CORAM : THE ACTING CJ R.A.MEHTA

Date of Order: 25/04/97

COMMON ORAL JUDGMENT :

In all these petitions the question is whether the order dated 6.4.1992 issued under sec.9 of the Bombay

Stamp Act, 1958 which supersedes the earlier order dated 28th March 1987 awarding the remission or reduction, can be effective retrospectively from 1st April 1992 and as to whether such notification would become effective only from the date when it is notified in the Official Gazette dated 2nd July 1992.

2. In the present case, the documents have been executed prior to 2nd July 1992 by the impugned notification. The rates of remission of duty have been reduced and the stamp duty payable has become substantially higher. Whether such higher stamp duty can have retrospective effect?

3. This question is concluded in favour of the petitioners and against the authorities by the decision of the Division Bench of this Court in Viapson Precision Pvt. Ltd. and others vs. State of Gujarat and another, 1993 (1) GLH 526. In that view of the matter, all these petitions are required to be allowed and the excess duty, if any paid by the petitioners is required to be refunded to them with interest at the rate of 15 per cent per annum from the date of payment of the stamp duty till the date of refund. The authorities are directed to pay the refund amount along with the interest within three months from today. Rule is made absolute in all these matters with costs.

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